

# **SUMMARY PLAN DESCRIPTION**

**CONTEMPO COLOURS, INC.**

**UNION 401(K) AND PENSION PLAN**

**PREPARED APRIL 2010**

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## INTRODUCTION

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### TYPE OF PLAN

Effective January 1, 2010, American Greetings Corporation amended and restated one of its 401(k) profit sharing plans. The plan is named the Contempo Colours, Inc. Union 401(k) and Pension Plan, but it will be referred to in this summary as the *Plan*. The Plan contains a cash or deferred arrangement. The Plan was "frozen" as to new participants and new contributions effective June 30, 2005, meaning the Plan has not accepted and will not accept any new Participants or new contributions after such date.

### PLAN SPONSOR

American Greetings Corporation is the sponsor of the Plan, and will sometimes be referred to in this summary as the *Sponsoring Employer*, the *Employer*, the *Company*, *we*, *us* or *our*. Our address is One American Road, Cleveland, OH 44144-2398; our telephone number is (216) 252-7300; and our employer identification number is 34-0065325.

### PURPOSE OF THIS SUMMARY

This booklet is called a Summary Plan Description (the *SPD*) and it is meant to describe highlights of the Plan in understandable language. It is not, however, meant to be a complete description of the Plan, nor is it meant to interpret, extend or change the provisions of the Plan in any way. If there is a conflict between this SPD and the Plan, the provisions of the Plan control your right to benefits. A copy of the Plan and related documents are on file with the Administrator and you can read them at any reasonable time. Also, no provision of the Plan or this SPD is intended to give you the right to continued employment or to prohibit changes in the terms or conditions of your employment. If you have any questions that are not addressed in this summary, you can contact the Administrator (who is described in the next section) during normal business hours.

## PLAN ADMINISTRATION

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### PLAN TRUSTEE

The Plan is administered under a written plan and trust agreement, and the trustee of that agreement is responsible for trusteeing the Plan's assets. The trustee is PNC Bank, N.A. The trustee is a directed trustee, which means that the trustee invests the assets of the Plan as instructed by us by an investment manager (if we have appointed one). The trustee can be contacted at 1700 West 82nd Street, Suite 200, Bloomington, MN 55431.

### PLAN ADMINISTRATOR

All matters other than investments that concern the operation of the Plan are the responsibility of the Administrator. The Administrator is American Greetings Corporation, whose address is One American Road, Cleveland, OH 44144-2398, and whose telephone number is (216) 252-7300. The Administrator has the power and authority to interpret the terms of the Plan based on the Plan document and existing laws and regulations, as well as the power to determine all questions that arise under the Plan. Such power and authority include, for example, the administrative discretion necessary to resolve issues with respect to an employee's eligibility for benefits, credited service, Disability, and retirement, or to interpret any other term contained in the Plan and related documents. The Plan Administrator's interpretations and determinations are binding on all Participants, employees, former employees, and their beneficiaries.

### PLAN NUMBER

For identification purposes, we have assigned number 014 to the Plan.

### SERVICE OF LEGAL PROCESS

If you have to bring legal action against the Plan for any reason, legal process can be served on the Administrator at One American Road, Cleveland, OH 44144-2398. Legal process can also be served on the trustee or on the Employer.

## **GENERAL PLAN DEFINITIONS**

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Many definitions are used in this summary and most are defined in the section where they appear, but the following terms have broader application and are used throughout this summary:

### **ACCOUNT**

Your Account represents the aggregate value of the various contributions made to the Plan on your behalf, as well as the net earnings on those contributions. Your Account includes (but is not limited to) the following sub-accounts:

- Your Elective Deferral Account
- Your Non-Elective Contribution Account

### **ALLOCATION PERIOD**

The Allocation Period is the period of time for which a contribution to the Plan is allocated. The Allocation Period is generally the Plan Year, but to the extent contributions are made more frequently than annually, they will be allocated based on the Compensation earned during the Allocation Period.

### **BREAK IN SERVICE**

You will incur a Break in Service if you fail to perform, in any 12-month computation period, more than 500 Hours of Service for eligibility purposes and more than 500 Hours of Service for Vesting purposes. A Break in Service may affect your eligibility to receive an allocation of contributions and the number of your Years of Service which are counted in determining your Vested Interest in your Account.

### **DISABILITY**

Disability is a physical or mental impairment you suffer after you become a Participant in the Plan (and while you are still an employee) which, in the opinion of a physician acceptable to the Administrator, totally and permanently prevents you from performing your customary and usual duties for us. If a difference of opinion arises between you and the Administrator as to whether you have suffered a Disability, it will be settled by a majority decision of three physicians, one to be appointed by the Administrator, one to be appointed by you, and the third to be appointed by the first two physicians.

### **EARLY RETIREMENT AGE**

Early Retirement Age is the first day of any month coinciding with or following the date you reach age 60.

### **ELECTIVE DEFERRAL**

An Elective Deferral is the amount you contribute to the Plan through payroll withholding.

### **HOUR OF SERVICE**

An Hour of Service is any hour for which you have a right to be paid by us, including hours you are paid for vacation, holidays, illness, back pay and maternity leave.

### **NON-ELECTIVE CONTRIBUTION**

A Non-Elective Contribution is an additional type of contribution we may elect to make to the Plan for any Plan Year. Non-Elective Contributions are generally made as a percentage of pay.

### **NORMAL RETIREMENT AGE**

Normal Retirement Age is the date you reach age 65.

### **PLAN YEAR**

The Plan Year is the 12 consecutive month accounting year of the Plan, and it begins each January 1st and ends the following December 31st.

### **VESTED INTEREST**

Your Vested Interest is the percentage of your Account to which you are entitled at any point in time. This percentage, in turn, is the aggregate of your Vested Interest in your various sub-accounts. Different types of accounts have different vesting requirements, which are explained in more detail in other sections of the

SPD that pertain to particular types of contributions. However, notwithstanding any vesting schedule set forth in those other sections of the SPD, you will have a 100% Vested Interest in your Account upon reaching Normal (or Early) Retirement Age, upon your death while you are still a Participant but before you terminate employment, or upon suffering a Disability while you are still a Participant but before you terminate employment.

#### **YEAR OF SERVICE**

A Year of Service is a period of time used to determine your eligibility to participate in the Plan and to determine your Vested Interest. A Year of Service for eligibility purposes is a 12 consecutive month computation period in which you are credited with at least 1,000 Hours of Service. Your initial eligibility computation period begins on your employment commencement date. Your second eligibility computation period overlaps your first eligibility computation period and begins on the first day of the Plan Year which begins prior to the first anniversary of your employment commencement date. For example, if your employment commencement date is March 1st, your first eligibility computation period will end on the last day of the following February, but your second eligibility computation period will have already begun on the immediately preceding January 1st and will end the following December 31st. Each succeeding eligibility computation period (if required) will begin January 1st and end December 31st. A Year of Service for Vesting purposes is a 12 consecutive month computation period in which you are credited with at least 1,000 Hours of Service. The Vesting computation period is the Plan Year.

## **ELECTIVE DEFERRALS**

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*Effective June 30, 2005, the Plan was "frozen" as to new Participants and new contributions, meaning the Plan has not accepted and will not accept any new Participants or new contributions after such date. The following provisions describe the Plan's operations and procedures in effect before June 30, 2005.*

#### **HOW THE CONTRIBUTION IS DETERMINED**

Your Elective Deferrals for any calendar year can't be less than 1% of your Compensation or more than the lesser of 16% of your Compensation or the annual dollar limit on Elective Deferrals set annually by law. Elective Deferrals are allocated to your Elective Deferral Account.

If you are a "catch-up eligible" Participant, you can make additional "catch-up contributions" to the Plan in excess of the limits on Elective Deferrals described above. You are a catch-up eligible Participant for any calendar year in which you have reached (or will reach) at least age 50 by the end of that calendar year. The catch-up contribution limit is an amount set annually by law.

#### **HOW YOU BECOME A PARTICIPANT**

To become a Participant in the Elective Deferral portion of the Plan, you must satisfy the following criteria (described in more detail below) for this portion of the Plan: (a) you must be an Eligible Employee; (b) you must satisfy the service requirement; and (c) you must be employed by us on the applicable entry date.

- **ELIGIBLE EMPLOYEES.** An Eligible Employee for this portion of the Plan means any person who meets all of the following three requirements: (1) a former employee of Contempo Colours, Inc.; (2) a member of Teamsters Local No. 7 at the time of employment with Contempo Colours, Inc.; and (3) is a current employee of the Employer. The following is considered to be in an ineligible class of employees and will not be an Eligible Employee in this Plan: employees who are non-resident aliens who do not receive earned income from us which constitutes income from sources within the United States.
- **SERVICE REQUIREMENT.** You must be credited with at least 1 Year of Service or, if earlier, 6 consecutive calendar months of employment in which you are credited with at least 83-1/3 Hours of Service per month.
- **ENTRY DATE.** Your entry date depends upon which service requirement you satisfy. If you are eligible to enter the Plan as a Participant because you have satisfied the 1 Year of Service requirement, then you will enter this portion of the Plan as a Participant on the earlier of (a) the first day of the Plan Year that occurs after the date you satisfy the 1 Year of Service requirement, or (b) on the date that

occurs six months after the date you satisfy the 1 Year of Service requirement. However, if you are eligible to enter the Plan as a Participant because you have satisfied the 6 consecutive calendar months of employment requirement, then you will enter this portion of the Plan as a Participant on the January 1st, April 1st, July 1st or October 1st that coincides with or next follows the date that you satisfy such requirement.

#### **SALARY DEFERRAL AGREEMENTS**

You must file a Salary Deferral Agreement with the Administrator before you can begin making Elective Deferrals to the Plan. This agreement is where you indicate the amount you want withheld from your Compensation and contributed to the Plan on your behalf. You can elect to contribute either a percentage of your Compensation or a flat dollar amount.

After your initial election, you can change your Salary Deferral Agreement by filing a new agreement with the Administrator on January 1st, April 1st, July 1st or October 1st of each Plan Year. You can also cancel your deferral agreement at any time by giving written notice (not to exceed 30 days) to the Administrator. If you do cancel your agreement, you will not be permitted to make a new election until the first available date that you would otherwise be entitled to change an existing agreement as described in the preceding sentence. The Administrator from time to time may establish additional administrative procedures (or change existing procedures) concerning deferral elections, in which case you will be appropriately notified.

The Administrator can temporarily suspend your deferral agreement if you reach the maximum amount that is permitted by law or the Plan, or if the Administrator believes the Plan may fail certain non-discrimination tests. You will be notified if your deferral agreement is temporarily suspended.

If you have not elected in your Salary Deferral Agreement to withhold at the maximum rate permitted for a Plan Year and you want to increase the total amount withheld for that Plan Year up to the maximum permitted rate, then you can make a supplemental election at any time during the last two months of the Plan Year to withhold an additional amount for one or more pay periods.

#### **HOW YOUR COMPENSATION IS DETERMINED**

In general, you can make Elective Deferrals from the amount reported on your Form W-2 (your "Compensation") for the Plan Year. However, you cannot make Elective Deferrals from Compensation in excess of the annual dollar limit on Compensation set annually by law. You also cannot make Elective Deferrals from (a) amounts received prior to the date you become a Participant in the Elective Deferral portion of the Plan; and (b) amounts received while you are a member of a class of employees which is ineligible to participate in the Elective Deferral portion of the Plan.

#### **HOW YOUR VESTED INTEREST IS DETERMINED**

Your Vested Interest in your Elective Deferral Account is 100% upon your entry into this portion of the Plan and at all times thereafter.

## **NON-ELECTIVE CONTRIBUTIONS**

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*Effective June 30, 2005, the Plan was "frozen" as to new Participants and new contributions, meaning the Plan has not accepted and will not accept any new Participants or new contributions after such date. The following provisions describe the Plan's operations and procedures in effect before June 30, 2005.*

#### **HOW THE CONTRIBUTION IS DETERMINED**

We may also make Non-Elective Contributions to the Plan. Making these contributions is totally discretionary on our part, as is the amount should we decide to make them.

#### **HOW YOU BECOME A PARTICIPANT**

To become a Participant in the Non-Elective Contribution portion of the Plan, you must satisfy the following criteria (described in more detail below) for this portion of the Plan: (a) you must be an Eligible Employee; (b) you must satisfy the service requirement; and (c) you must be employed by us on the applicable entry date.

- **ELIGIBLE EMPLOYEES.** An Eligible Employee for this portion of the Plan means any person who meets all of the following three requirements: (1) a former employee of Contempo Colours, Inc.; (2) a member of Teamsters Local No. 7 at the time of employment with Contempo Colours, Inc.; and (3) is a current employee of the Employer. The following is considered to be in an ineligible class of employees and will not be an Eligible Employee in this Plan: employees who are non-resident aliens who do not receive earned income from us which constitutes income from sources within the United States.
- **SERVICE REQUIREMENT.** You must be credited with at least 1 Year of Service or, if earlier, 6 consecutive calendar months of employment in which you are credited with at least 83-1/3 Hours of Service per month.
- **ENTRY DATE.** Your entry date depends upon which service requirement you satisfy. If you are eligible to enter the Plan as a Participant because you have satisfied the 1 Year of Service requirement, then you will enter this portion of the Plan as a Participant on the earlier of (a) the first day of the Plan Year that occurs after the date you satisfy the 1 Year of Service requirement, or (B) on the date that occurs six months after the date you satisfy the 1 Year of Service requirement. However, if you are eligible to enter the Plan as a Participant because you have satisfied the 6 consecutive calendar months of employment requirement, then you will enter this portion of the Plan as a Participant on the January 1st, April 1st, July 1st or October 1st that coincides with or next follows the date that you satisfy such requirement.

#### **HOW YOU QUALIFY FOR A CONTRIBUTION ALLOCATION**

Once you become a Participant in this portion of the Plan, you are eligible for a Non-Elective Contribution for any Allocation Period for which we make one if you satisfy the requirements (if any) described below for that Allocation Period. Non-Elective Contributions are allocated to your Non-Elective Contribution Account.

- **ACTIVE PARTICIPANTS.** If you are still employed by us on the last day of an Allocation Period, you will be eligible to receive an allocation if you are credited with at least 1,000 Hours of Service during the Allocation Period.
- **TERMINATED PARTICIPANTS.** If you terminate employment with us before the last day of an Allocation Period because of your retirement on or after Normal or Early Retirement Age, or because of your death or Disability, you will be eligible to receive an allocation regardless of your service during the Allocation Period. If you terminate employment with us before the last day of an Allocation Period for any other reason, you will not be eligible to receive an allocation for that Allocation Period.

#### **HOW THE CONTRIBUTION IS ALLOCATED**

Non-Elective Contributions are allocated in the ratio that your Compensation for the Allocation Period bears to the total Compensation of all Participants eligible to receive an allocation for the Allocation Period. This means that the amount allocated to each eligible Participant's Non-Elective Contribution Account will, as a percentage of Compensation, be the same. For example, if the contribution is equal to 5% of all eligible Participants' Compensation, then that is the amount that will actually be allocated each eligible Participant's Non-Elective Contribution Account.

#### **HOW YOUR COMPENSATION IS DETERMINED**

In general, the amount of Non-Elective Contributions made on your behalf is based on the amount reported on your Form W-2 (your "Compensation") for the Plan Year. However, Non-Elective Contributions will not be made with respect to Compensation in excess of the annual dollar limit on Compensation set annually by law. Non-Elective Contributions will also not be made with respect to the following Compensation: (a) amounts received prior to the date you become a Participant in the Non-Elective Contribution portion of the Plan; and (b) amounts received while you are a member of a class of employees which is ineligible to participate in the Non-Elective Contribution portion of the Plan.

## **HOW YOUR VESTED INTEREST IS DETERMINED**

Your Vested Interest in your Non-Elective Contribution Account is determined by the vesting schedule following this paragraph, based on your credited Years of Service when your Vested Interest is determined. In determining your Vested Interest in this account, all of your Years of Service will be counted. Any part of this account which is not vested will be forfeited when you receive a distribution of your Vested Interest (or after you incur 5 consecutive Breaks in Service, if earlier) and will thereafter be used to reduce our other contributions.

1 Year of Service .....	25% Vested
2 Years of Service.....	50% Vested
3 Years of Service.....	75% Vested
4 Years of Service.....	100% Vested

## **TOP HEAVY REQUIREMENTS**

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Under certain circumstances, you may be entitled to a minimum allocation for any Plan Year in which the Plan is considered "top heavy." The Plan is considered top heavy for any Plan Year in which more than 60% of Plan assets are allocated to the Accounts of Participants who are "key" employees (that is, employees who satisfy certain ownership requirements and employees who are officers and whose Compensation for the Plan Year exceeds certain IRS limits). However, the Plan automatically satisfies this requirement in any Plan Year for which we make a contribution on your behalf to another qualified retirement plan (if any) that we sponsor.

If the Plan is not exempt, then for each Plan Year in which the Plan is considered top heavy and in which you are a "non-key" employee who is employed by us on the last day of the Plan Year, you will receive a minimum allocation equal to the lesser of 3% of your Compensation or the highest percentage of Compensation allocated for that Plan Year to the Accounts of Participants who are key employees.

## **MAXIMUM ALLOCATION LIMITATIONS**

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The amount of contributions and forfeitures that can be allocated to your Account for any Plan Year is limited by law to the lesser of 100% of your Compensation or the annual dollar limit set annually by law. However, this limitation does not apply to the amount of earnings that can be allocated to your Account, to the amount of any Rollover Contributions you can make to the Plan, or to any other funds transferred to this Plan on your behalf from another qualified retirement plan.

## **ROLLOVER CONTRIBUTIONS**

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If you participated in another retirement plan and you have become a Participant for the Elective Deferral portion of the Plan, you may be permitted to roll over any distribution you receive from the other plan to this Plan if all legal requirements (and any requirements imposed by the Administrator) on such rollovers are satisfied. Do not withdraw funds from any other plan or account until you have received written approval from the Administrator to roll those funds into this Plan. If you do decide to make a rollover contribution and it is accepted by the Administrator, it will be kept in a separate Rollover Account established on your behalf. You will at all times have a 100% Vested Interest in your Rollover Account, and you can make withdrawals from your Rollover Account at any time.

## **DISTRIBUTION OF BENEFITS**

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### **DISTRIBUTIONS FOR REASONS OTHER THAN DEATH**

If you terminate employment for any reason other than death, your Vested Interest will be distributed within an administratively feasible time after you terminate. Your Vested Interest will be distributed as monthly payments from an insurance company. Monthly payments will cease when you die unless you're married when payments begin, in which case your surviving spouse (if any) will then begin receiving a monthly payment for the balance of his or her life. Your spouse's monthly payment will equal 50% of the

monthly payment you are receiving when you die (unless you elect a higher percentage). You can elect any percentage between 50% and 100%, but the amount of each monthly payment you receive will be decreased as the percentage you elect for your spouse is increased.

With your spouse's written consent, you can also elect not to receive monthly payments and instead elect to receive either (a) a lump sum; or (b) substantially equal installment payments over a specified period of time. If you elect installment payments, there are limits on how long the payments can be made, and they will be explained to you at the appropriate time. If you elect a lump sum, it can be paid to you or, at your election, rolled over to another qualified retirement plan that agrees to receive the distribution or to an individual retirement account.

In addition to the benefit payments described above, there are rules which require that certain minimum distributions be made from the Plan. Generally, these minimum distributions must begin no later than (a) the April 1st following the end of the calendar year in which you reach age 70½ or (b) the April 1st following the end of the calendar year in which you retire. However, if you are a 5% owner, you must begin receiving minimum distributions by the April 1st following the end of the year in which you reach age 70½ even if you are still employed by the Employer.

*The following describes the Plan's mandatory cash-out provision, which applied prior to January 1, 2010:* If you terminate employment with us for any reason and your Vested Interest (excluding your Rollover Account) is \$5,000 or less, it will be distributed in a lump sum as soon as administratively feasible after you terminate employment. The distribution will be made to you or, at your election, will be rolled over either to another qualified retirement plan that agrees to receive the distribution or to an individual retirement account (IRA) established by you. However, if your Vested Interest (excluding your Rollover Account) is more than \$1,000 but not more than \$5,000 and you fail to elect either a lump sum or a rollover as described above, we will establish an individual retirement account (IRA) for you at a qualified financial institution of our choosing and will automatically roll your Vested Interest over to that IRA. Your funds will then be invested in a type of investment designed to preserve principal and provide a reasonable rate of return and liquidity, such as an interest-bearing account, a certificate of deposit, or a money market fund. The IRA provider will charge your IRA for any expenses associated with the establishment and maintenance of the IRA and with the IRA investments. If your Vested Interest is rolled over to an IRA under this "automatic rollover" requirement, you will be given more information at that time regarding the IRA provider and any fees or expenses associated with the IRA.

#### **DISTRIBUTIONS UPON DEATH**

Your Vested Interest will be distributed to your beneficiary as soon as administratively feasible after your death. If you are not married, you can name anyone to be your beneficiary. If you are married, your spouse is automatically the beneficiary of 50% of your Vested Interest, but you can name anyone else (including your spouse) to receive the other 50% of your Vested Interest. Your spouse can waive in writing his or her statutory death benefit, in which case you can name one or more other beneficiaries to receive your entire Vested Interest. Any death benefit payable to a non-spouse beneficiary will be distributed to your beneficiary in a lump sum. However, any death benefit payable to your spouse will be distributed as monthly payments until his or her death unless, with your spouse's written consent, you waive the monthly payments, in which case your spouse will receive a lump sum.

If your death occurs *before* the date that minimum distributions must begin (as described in the preceding section), the distribution of your Vested Interest to your beneficiary must be made within certain legal timeframes which are dependent upon several factors, including (a) whether you have a designated beneficiary, (b) your relationship to the beneficiary (spousal or non-spousal beneficiary) and (c) certain elections that your beneficiary may make after your death. However, if your death occurs *after* the date that minimum distributions must begin, the minimum death benefit that must be paid to your beneficiary each year after your death is based on the longer of your remaining life expectancy (had you survived) or the remaining life expectancy of your beneficiary. Your beneficiary may also choose to accelerate the payment rate. Please contact the Administrator for more information regarding payments to beneficiaries.

Any death benefit received by your spouse can be rolled over to an IRA. Effective as of January 1, 2008, a non-spouse beneficiary may establish a special IRA (an "Inherited IRA") that can receive a direct rollover of all (except for any required minimum distributions) or a portion of a death benefit that would be distributed from the Plan to that non-spouse beneficiary.

Certain portions of a death benefit may not be eligible to be rolled over from the Plan into an Inherited IRA. If you (a deceased Participant) needed to take a required minimum distribution in the year of your death (but you have not yet taken that required minimum distribution), then that required minimum distribution cannot be rolled over from the Plan into an Inherited IRA. Similarly, if the non-spouse beneficiary needs to take any required minimum distribution from the Plan for the year in which the direct rollover occurs (or any prior year), then the non-spouse beneficiary cannot roll over that required minimum distribution into an Inherited IRA.

If the non-spouse beneficiary elects to roll over the death benefit to an Inherited IRA, then the inherited IRA will be subject to complicated required minimum distribution rules. You should inform your non-spouse beneficiary that (a) he or she is designated to receive your death benefit, and (b) your death benefit can be rolled over to an Inherited IRA. The non-spouse beneficiary should discuss any planning issues and tax consequences with their professional tax advisor with respect to a direct rollover of your death benefit into an Inherited IRA.

#### **HARDSHIP DISTRIBUTIONS**

As long as you are an employee, you can, with the written consent of your spouse, take a distribution to pay for a financial hardship caused by one or more of the following circumstances:

- Unreimbursed expenses for medical care (or unreimbursed expenses necessary to obtain medical care) incurred by you, your spouse, or your dependents, provided the expenses are the type that are considered tax deductible under the Internal Revenue Code.
- Costs related to the purchase of your principal residence (excluding mortgage payments).
- Payments necessary to prevent eviction from your principal residence or to prevent foreclosure on the mortgage of your principal residence.
- Tuition, related educational fees, and room and board, for up to the next 12 months of post-secondary education for you, your spouse, your children, or other eligible dependents.
- Funeral expenses for your deceased parent, your spouse, your children, or other eligible dependents.
- Expenses for repair of damage to your principal residence that would qualify for a casualty deduction (without regard to whether the loss exceeds 10% of your adjusted gross income).

## **LOANS TO PARTICIPANTS**

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You are permitted to borrow from the Plan with the approval of the Administrator. All loans will be made in accordance with the Loan Policy established by the Administrator. You can obtain a copy from the Administrator.

## **INVESTMENT OF ACCOUNTS**

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Subject to an investment policy established by the Administrator, you can direct how the following accounts are invested:

- Your Elective Deferral Account
- Your Rollover Account

You can choose from any investments offered by the Plan. You can switch between investments as often as is permitted under the investment options you choose. All earnings and losses on your directed investments will be credited directly to your Account. Investment results will reflect any fees and investment expenses for the investments you select. You may request more information on fees associated with an investment option from the Administrator. At the appropriate time, we will provide you with more detailed information about the Plan's investment options.

Accounts you are not permitted to direct will be placed in the fund maintained by us, which will be invested in a diversified portfolio which may include savings and/or money market accounts, stocks, bonds, mutual funds, and insurance company funds. These accounts will share in the investment performance of the fund, which is valued at least annually. Investment results will reflect any fees and investment expenses that may be charged against the fund. You may request more information on any fees and expenses associated with the Plan from the Administrator.

*We intend to comply with Section 404(c) of the Employee Retirement Income Security Act of 1974. This means that if you are permitted to exercise independent control over the investment of your Account and you are offered a reasonably diverse selection of well managed investment options, then the fiduciaries of the Plan, including the Administrator and us, may be relieved of certain liabilities for any losses which occur because you exercise control.*

## **TAX WITHHOLDING ON DISTRIBUTIONS**

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Due to the complexity and frequency of changes in the federal laws that govern benefit distributions, penalties and taxes, the following is only a brief explanation of the law and IRS rules and regulations as of the date this summary is issued. You will receive additional information from the Administrator at the time of any benefit distribution, and you should consult your tax advisor to determine your personal tax situation before taking the distribution.

### **DIRECT ROLLOVERS NOT SUBJECT TO TAX**

Any eligible distribution that is directly rolled over to another eligible retirement account (either another qualified retirement plan or an individual retirement account) is not subject to income tax withholding. Generally, any part of a distribution from this Plan can be directly rolled over to another eligible retirement account unless the distribution (1) is part of a series of equal periodic payments made over your lifetime, or over the lifetime of you and your beneficiary, or over a period of 10 years or more; or (2) is a minimum benefit payment which must be paid to you by law. There are other distributions that are not eligible for direct rollover treatment, and you should contact the Administrator if you have questions about a particular distribution.

### **20% WITHHOLDING ON TAXABLE DISTRIBUTIONS**

If you have your benefit paid to you and it's eligible to be rolled over, you only receive 80% of the benefit payment. The Administrator is required to withhold 20% of the benefit payment and remit it to the Internal Revenue Service as income tax withholding to be credited against your taxes. If you receive the distribution before you reach age 59½, you may also have to pay an additional 10% tax. You can still rollover all or a part of the 80% distribution that is paid to you by putting it into an IRA or into another qualified retirement plan within 60 days of receiving it. If you want to rollover 100% of the eligible distribution to an IRA or to another qualified retirement plan, you must find other money to replace the 20% that was withheld. You cannot elect out of the 20% withholding (1) unless you are permitted (and elect) to leave your benefit in this Plan, or (2) unless you have 100% of an eligible distribution transferred directly to an IRA or to another qualified retirement plan that accepts rollover contributions.

## **CLAIMS PROCEDURE**

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If you feel that you are entitled to a benefit that you are not receiving from the Plan, you can make a written request to the Plan Administrator (or its delegate) for that benefit. Benefits fall into two categories – Disability related benefits and non-Disability related benefits. The claims procedure for each benefit is similar, but there are differences. The claims procedure and appeals process for each type of benefit is explained in more detail below.

### **CLAIMS FOR NON-DISABILITY BENEFITS**

If you feel that you are entitled to a non-Disability related benefit that you are not receiving, you can make a written request to the Administrator (or its delegate) for the benefit. If your request is denied, you will be informed by written or electronic notice within 90 days after the Administrator receives your request. This notice will contain the following information: (a) the specific reason or reasons for denial; (b) specific reference to the Plan provisions on which the denial is based; (c) a description of any additional material or

information necessary in order to present a thorough appeal and an explanation of why such material or information is needed; and (d) an explanation of the claim appeal procedure and time limits applicable to the procedure, including a statement of your right to bring a civil action under ERISA Section 502 after a denial on appeal.

*Note: If the Administrator needs more than 90 days to review your claim for benefits, you will be advised by written or electronic notice within 90 days after the Administrator receives your claim. The notice will tell you why the Administrator needs more time (which cannot exceed an additional 90 days), and the date by which you can expect a decision.*

If you disagree with the Administrator's decision to deny your claim, you can appeal the denial to the Administrator. You must submit this appeal to the Administrator within 60 days after the date that you receive the notice of denial of your initial claim. For purposes of the review, you have the right to (a) submit written comments, documents, records and other information relating to the claim for benefits; (b) request, free of charge, reasonable access to, and copies of all documents, records and other information relevant to your claim for benefits; and (c) a review that takes into account all comments, documents, records, and other information you submitted relating to the claim, regardless of whether the information was submitted or considered in the initial decision.

Your denied claim will be reviewed by the Administrator and within 60 days after receipt of the request for review you will receive a written or electronic notice of the Administrator's decision. The notice will (a) provide the specific reason or reasons for denial; (b) refer to the provisions of the Plan on which the denial is based; (c) contain a statement that you are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim; and (d) describe any voluntary appeal procedures offered by the Plan and your right to obtain information about the procedures, and a statement of your right to bring a civil action if you disagree with the Plan Administrator's decision on appeal.

*Note: If the Administrator needs more than 60 days to review your denied claim, you will be advised in writing (or electronically) within 60 days after the Administrator receives the request for review. The notice will tell you why the Administrator needs more time (up to an additional 60 days), and the date by which you can expect a decision.*

### **CLAIMS FOR DISABILITY BENEFITS**

If you feel that you are entitled to a Disability-related benefit that you are not receiving, you can make a written request to the Plan Administrator (or its delegate) for the benefit. If your request is denied, you will be informed by written or electronic notice within 45 days after the Administrator receives your request. This notice will contain the following information: (a) the specific reason or reasons for denial; (b) specific reference to the Plan provisions on which the denial is based; (c) a description of any additional material or information necessary in order to present a thorough appeal and an explanation of why such material or information is needed; and (d) an explanation of the claim appeal procedure and time limits applicable to the procedure, including a statement of your right to bring a civil action under ERISA Section 502 after a denial on appeal. In addition, if an internal rule, guideline, protocol, or other similar criterion was used in making the adverse determination, the notice must provide either the specific rule, guideline, protocol, or other similar criterion, or a statement that the rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination and that a copy of the rule, guideline, protocol, or other criterion will be provided to you free of charge upon request; and if the adverse benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit, the notice must provide either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to your medical circumstances, or a statement that the explanation will be provided to you free of charge upon request.

*Note: If the Administrator needs more than 45 days to review your claim for benefits because of matters beyond the Administrator's control, you will be advised by written or electronic notice within 45 days after the Administrator receives your claim. The notice will tell you why the Administrator needs more time (which cannot exceed an additional 30 days) and the date by which you can expect a decision. If, prior to the end of the first 30-day extension period, the Administrator determines that more time is needed to review your claim, then the period for making the determination can be extended for up to an additional 30*

*days if you are notified prior to the expiration of the first 30-day extension period why an extension is needed and the date by which the Administrator expects to render a decision. Any notice of extension will specifically explain the standards on which entitlement to a benefit is based, the unresolved issues that prevent a decision on the claim, and the additional information needed to resolve those issues, and your will be afforded at least 45 days within which to provide the specified information.*

If you disagree with the Administrator's decision to deny your claim, you can appeal the denial to the Administrator, who will then appoint an independent party to review your appeal. You must submit this appeal to the Administrator within 180 days after the date that you receive the notice of denial of your initial claim. If your appeal is based in whole or in part based on a medical judgment, including determinations with regard to whether a particular treatment, drug, or other item is experimental, investigational, or not medically necessary or appropriate, then the party reviewing your appeal will consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment. You will also be given the name of any medical or vocational expert whose advice was obtained by the Administrator in connection with the initial denial, even if the advice was not relied upon in denying your claim.

Your denied claim will be reviewed by the Plan Administrator and within 45 days after receipt of the request for review you will receive a written notice of the Plan Administrator's decision. The notice will (a) provide the specific reason(s) for the denial; (b) refer to the provisions of the Plan on which the denial is based; (c) contain a statement that you are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim; and (d) describe any voluntary appeal procedures offered by the Plan and your right to obtain information about the procedures, and a statement of your right to bring a civil action if you disagree with the Plan Administrator's decision on appeal.

*Note: If the Plan Administrator needs more than 45 days to review your denied claim, you will be advised in writing within 45 days after the Administrator receives the request for review. The notice will tell you why the Plan Administrator needs more time (which cannot exceed an additional 45 days), and the date by which you can expect a decision.*

## **OTHER INFORMATION**

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### **ATTACHMENT OF YOUR ACCOUNT**

Your creditors cannot garnish or levy upon your Account except in the case of a proper Internal Revenue Service tax levy, and you cannot assign or pledge your Account except as collateral for a loan from the Plan or as directed through a Qualified Domestic Relations Order as part of a divorce, child support or similar proceeding in which a court orders that all or part of your Account be transferred to another person (such as your ex-spouse or your children). The Plan has a procedure for processing QDROs, which you can obtain free of charge from the Administrator.

### **AMENDMENT OR TERMINATION OF THE PLAN**

We may amend or terminate the Plan at any time. Upon termination of the Plan, all Participants will have a 100% Vested Interest in their Accounts as of the Plan termination date, and all Accounts will be available for distribution at the same time and in the same manner as would have been permissible had the Plan not been terminated.

### **ACCOUNTS ARE NOT INSURED**

Your Account is not insured by the Pension Benefit Guaranty Corporation (PBGC) because the insurance provisions of ERISA do not apply to 401(k) plans. For more information on PBGC coverage, ask the Administrator or contact the PBGC. Written inquiries to the PBGC should be addressed to: Technical Assistance Division, PBGC, 1200 K Street NW, Suite 930, Washington, D.C. 20005-4026. You can also call the PBGC with any questions at (202) 326-4000.

### **PAYMENT OF PLAN EXPENSES**

The Plan routinely incurs expenses for the services of lawyers, actuaries, accountants, third party administrators, and other advisors. Some of these expenses may be paid directly by us while other expenses

may be paid from the assets of the Plan. The expenses that are paid from Plan assets will be shared by all Participants either on a pro-rata basis or an equal dollar basis. If the expense is paid on a pro-rata basis, an amount will be deducted from your Account based on its value as compared to the total value of all Participants' Accounts. For example, if the Plan pays \$1,000 of expenses and your Account constitutes 5% of the total value of all Accounts, \$50 would be deducted from your Account ( $\$1,000 \times 5\%$ ) for its share of the expense. On the other hand, if the expense is paid on an equal dollar basis, the expense is divided by the number of Participants and then the same dollar amount is deducted from each Participant's Account.

## **STATEMENT OF ERISA RIGHTS**

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### **YOUR RIGHT TO RECEIVE INFORMATION**

As a Participant, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan Participants are entitled to (a) examine, without charge, at the Plan Administrator's office and at other specified locations, such as worksites and union halls, all documents governing the Plan, including insurance contracts and collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration; (b) obtain copies of documents governing the operation of the Plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated summary plan description upon written request to the Plan Administrator. The Administrator may make a reasonable charge for the copies; (c) receive a summary of the Plan's annual financial report. The Plan Administrator is required by law to furnish each Participant with a copy of this summary annual report; and (d) obtain a statement telling you whether you have a right to receive a pension at Normal Retirement Age (which is defined elsewhere in this summary plan description) and if so, what your benefits would be at Normal Retirement Age if you stop working under the Plan now. If you do not have a right to a pension, the statement will tell you how many more years you have to work to get a right to a pension. This statement must be requested in writing and is not required to be given more than once every twelve (12) months. The Plan must provide the statement free of charge.

### **DUTIES OF PLAN FIDUCIARIES**

In addition to creating rights for Plan Participants, ERISA imposes duties upon the people who are responsible for the operation of the Plan. The people who operate your Plan, called "fiduciaries" of the Plan, have a duty to do so prudently and in the interest of you and other Plan Participants and beneficiaries. No one, including your Employer, your union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a pension benefit or exercising your rights under ERISA.

### **ENFORCEMENT OF RIGHTS**

If your claim for a pension benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules. Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of Plan documents or the latest annual report from the Plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case, the court may require the Plan Administrator to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Administrator. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or Federal court. In addition, if you disagree with the Plan's decision or lack thereof concerning the qualified status of a domestic relations order, you may file suit in Federal court. If it should happen that Plan fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

### **ASSISTANCE WITH YOUR QUESTIONS**

If you have any questions about your Plan, you should contact the Plan Administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining

documents from the Plan Administrator, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory (or which can also be found at the Employee Benefits Security Administration website at [http://www.dol.gov/ebsa/aboutebsa/org\\_chart.html](http://www.dol.gov/ebsa/aboutebsa/org_chart.html)) or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210.

You can call the Employee Benefits Security Administration at (866) 444-3272; TTY/TDD users: (877) 889-5627. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration. You may obtain additional pension-related information at the Department of Labor's website at <http://www.dol.gov/ebsa/publications/wyskapr.html> where you can review a publication called "*What You Should Know About Your Retirement Plan.*"

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